

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
BROOKLYN DIVISION

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IN RE:

Chapter 7

14937256 CORP.

Case No.: 1-21-41295-NHL

Debtors.

Judge: Hon. Nancy Hershey Lord

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I, Yonel Devico, being of lawful age and being first duly sworn on oath, states and deposes as follows:

1. I am over 18 years of age. I have personal knowledge of the facts in this Affidavit based on my review of the business records defined below, am competent to testify about such facts, and would do so if I appeared as a witness in the above-styled action.

2. I am a Vice President at Miami Home LLC (“Miami Home”). As such, I am authorized to make this Affidavit in support of the motion.

3. In the regular performance of my job functions, I have access to and am familiar with the business records (the “Records”) relating to the mortgage loan dated August 6, 2007 in the amount of \$90,450.00 in favor of National City Bank (the “NCB Loan”). Attached to the Declaration of Seth D. Weinberg (the “Weinberg Decl.”) as **Exhibits F and G** are true and correct copies of the NCB Note and the NCB Mortgage (the “Note and Mortgage”). The Borrowers on the NCB loan were Dominic Nunu (“Nunu”) and Danny J. Sumo (“Sumo”) (collectively the “Borrowers”). *See id.*

4. The Records (which include but are not limited to, data compilations, electronically imaged documents, and others) are made at or near the time of events or activities reflected in such records by, or from information provided by, persons with knowledge of the activities and the

transactions reflected in such records and are kept in the ordinary course of business activity conducted regularly by Miami Home (the “Business Records”). I am also familiar with Miami Home’s office practices and procedures. It is the regular practice of Miami Home’s business to create and maintain these records.

5. Furthermore, it is in Miami Home’s ordinary course of business to communicate with its predecessors-in-interest to obtain information, data and records regarding the Subject Loan and to rely on that information, data and records and to incorporate those records into the Business Records for Miami Home.

6. In connection with making this Affidavit, I personally examined the Business Records associated with the NCB Loan. As a result of this review, I know the facts set forth in this Affidavit based on my own personal knowledge and if called and sworn as a witness could competently testify thereto.

7. Miami Home is a mortgagee of a property owned by Debtor known as 149-37 256th Street, Rosedale, New York 11422 (the “Property”) by virtue of its ownership of a Note and Mortgage dated August 6, 2007. *See* Weinberg Decl. **Exhibits F, G and H**. The mortgage was assigned to Miami Home by the assignment of mortgage dated May 27, 2021. *See* Weinberg Decl. **Exhibit H**. The Note, specifically endorsed to Miami Home is within our possession.

8. Miami Home and the Debtor lack privity of contract. The Debtor is not a party to the Note or Mortgage, nor has the Debtor assumed the rights/obligations under these agreements. *See id.* In fact, the transfer of the Property from the Borrowers to the Debtor was in violation of the terms of the Mortgage and constituted an additional default thereunder. *See* Weinberg Decl. **Exhibit G**, Mortgage § 8 – Property(b).

9. In addition to the aforementioned default, the Borrowers defaulted under the terms of the Note and Mortgage by failing to tender the payments required beginning with the payment due on August 1, 2009 and all subsequent payments thereafter. *See* Weinberg Decl. **Exhibit Q**.

10. I have reviewed our Records, and no payment of any kind has been received concerning the NCB Loan since August 1, 2009.

**WHEREFORE**, it is respectfully requested that Miami Home's motion be granted in its entirety, with such other and further relief that the Court may deem just and proper.

Dated: 6/7/2021.

**MIAMI HOME LLC**

By: Yonel DeVico

Name: [Signature]

Title: V.P.

STATE OF FLORIDA )  
 ) ss.  
COUNTY OF MIAMI-DADE )

On JUNE 7, 2021, before me, MOTT KORNICKI, a Notary Public in and for said County and State, personally appeared YONEL DEVICO, who is personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

My Commission Expires:

Nov. 29, 2021

